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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,848	03/09/2004	Gregory Louis Hoover		2434

7590 08/08/2007  
Gregory Louis Hoover  
211 McLeod St.  
Merritt Island, FL 32953

EXAMINER

OLANIRAN, FATIMAT O

ART UNIT	PAPER NUMBER
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2609

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/796,848

**Applicant(s)**

HOOVER, GREGORY LOUIS

**Examiner**

Fatimat O. Olaniran

**Art Unit**

2609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

1. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

### ***Specification***

2. The abstract of the disclosure is objected to because it exceeds 1 paragraph. Examiner suggests combining the first and second paragraph into one paragraph. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: the applicant's continuous use of quotation marks for words example "treble", "bass" and "stethoscope" when no quotation is being made. Appropriate correction is required.

4. Paragraphs 35-36 as disclosed in the published application are objected to because applicant should not directly address the USPTO in the disclosure. Appropriate correction is required.

### ***Claim Objections***

5. Claims 1-4 are objected to because of the following informalities: Preamble, "What I claim as my invention" is redundant and should be removed because; "claims" section of application presents claimed invention. Appropriate correction is required.
6. Claims 2-4 are objected to because of the following informalities: improper claim language. Applicant must state which claim each claim depends on by mentioning the claim number and not refer to the claim by "the preceding paragraphed claim".

### ***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claim 4 is rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a process, machines, manufacture and composition of matter, asserted utility or a well established utility.

Claim 4 discloses, "appropriate computer software program..." The software claimed as a computer listing per se, i.e., the descriptions or expressions of the programs are not physical "things". They are neither computer components nor statutory process as they are not "acts" being performed. Such claimed computer

program (software) does not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. As such, software not claimed as embodied in computer readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory and appears to be one type of claim that is considered nonstatutory, under the present USPTO Interim Guidelines, 1300 Official Gazette Patent and Trademark Office 142 (Nov. 22 2005).

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

10. Claims 1-4 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims are narrative in form and replete with indefinite and functional or operational language. The structure that goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. Examples of indefiniteness in applicant's claims include; in claim 1 "the electronic amplification of those sounds typically heard by the use of the common stethoscope". Applicant must clearly disclose what sounds are "typically heard", and provide antecedent basis for "those sounds" also

applicant presents a method claim for claim 1 and then an apparatus claim for claim 2. These examples are not exhaustive so applicant must make corrections where required for each claim. Note the format of the claims in the patents cited.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being unpatentable over

Bredesen et al (5,218,969)

Claim 1, Bredesen discloses the electronic amplification of those sounds typically heard by the use of the common stethoscope, by means of a battery powered amplifier (col. 3 line 39-41, Fig. 2, col. 4 line 17-18), which boosts the volume of sounds detected by a miniature microphone located in the drum membrane of the stethoscope, (Fig. 2 col. 6 line 23-25), that are then heard by the user via headphones, earphones, or ear-insert mini-speakers (col. 6 line 25-27).

Claim 2, Bredesen discloses a compact disc or digital recording system (col. 3 line 18-19) to record those sounds detected by the use of the electronically amplified stethoscope (col. 3 line 20-21).

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Claim 3, Bre desen discloses a bass and treble acoustic control mechanism to clarify the sounds detected (and or recorded) by the device (col. 12 line 12-14).

Claim 4, Bre desen discloses digital recordings fed into a computer, which by an appropriate computer software program (col.14 line 64-65) may analyze such recordings (col.15 line 17-18) to detect irregular sounds, so that a physician may be alerted to a potential ailment or the physical improvement of a patient (col. 15 line 23-25).

13. The following prior art listed below is made of record and was not relied upon but is considered pertinent to applicant's disclosure:

US Patent 4,438,772

US Patent 3, 539,724

US Patent 4, 898,179

US Patent 5,774, 563

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fatimat O. Olaniran whose telephone number is 571-270-3437. The examiner can normally be reached on M-F Alt F off 8-5 EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on 571-272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FO



**HAI TRAN**  
**PRIMARY EXAMINER**